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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/051,011	
	Filing Date	1/22/2002	
	First Named Inventor	Guerin D. Rife	
	Art Unit	3711	
	Examiner Name	Duong	
Total Number of Pages in This Submission	1	Attorney Docket Number	RIF-114

ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Technology Center (TC)
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	John L. Welsh
Signature	
Date	6/24/04

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FEE TRANSMITTAL

for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 165

Complete if Known

Application Number	10/051,011
Filing Date	1/22/2002
First Named Inventor	Guerin D. Rife
Examiner Name	Duong
Art Unit	3711
Attorney Docket No.	RIF-114

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

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FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 770	2001 385	Utility filing fee	
1002 340	2002 170	Design filing fee	
1003 530	2003 265	Plant filing fee	
1004 770	2004 385	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	

SUBTOTAL (1) (\$)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Independent Claims	Multiple Dependent	Extra Claims	Fee from below	Fee Paid
			-20** =	X	
			-3** =	X	

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 86	2201 43	Independent claims in excess of 3
1203 290	2203 145	Multiple dependent claim, if not paid
1204 86	2204 43	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for ex parte reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 420	2252 210	Extension for reply within second month	
1253 950	2253 475	Extension for reply within third month	
1254 1,480	2254 740	Extension for reply within fourth month	
1255 2,010	2255 1,005	Extension for reply within fifth month	
1401 330	2401 165	Notice of Appeal	
1402 330	2402 165	Filing a brief in support of an appeal	165
1403 290	2403 145	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,330	2453 665	Petition to revive - unintentional	
1501 1,330	2501 665	Utility issue fee (or reissue)	
1502 480	2502 240	Design issue fee	
1503 640	2503 320	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 770	2809 385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 770	2810 385	For each additional invention to be examined (37 CFR 1.129(b))	
1801 770	2801 385	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 165

SUBMITTED BY

Name (Print/Type)	John L. Welsh	Registration No. (Attorney/Agent)	33,621	Telephone	7039201122
Signature		Date	6/24/04		

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Guerin D. Rife

Serial No.: 10/051,011

Filed : 1/22/2002

Title : IRON TYPE GOLF CLUB

Group Art Unit: 3711

Examiner: Duong

APPEAL BRIEF

Commissioner of Patents
and Trademarks
Washington, D.C. 20231

Sir:

REAL PARTY IN INTEREST

Guerin D. Rife is the real party of interest in the above-referenced patent application. _____

RELATED APPEALS AND INTERFERENCES

Neither Appellant's representative nor Appellant are aware of any related appeals and/or interferences affected by or having a bearing on the Board's decision in the pending appeal.

STATUS OF CLAIMS

Claims 61-63 and 66-72 are currently pending in the above-referenced application. Appellant accordingly appeals the Examiner's final rejection of Claims 61-63 and 66-72 which is as follows:

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1. Claims 61-63, 66, 68 and 71-72 stand rejected under 35 U.S.C. §102(b), as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over U.S. Patent No. 4,645,207 to Teramoto et al. ("Teramoto").

2. Claims 67, 69 and 70 stand are rejected under 35 U.S.C. §103(a), as being unpatentable over Teramoto in view of U.S. Patent Nos. 5,048,835 to Gorman ("Gorman") and 5,390,924 to Antonious ("Antonious").

STATUS OF AMENDMENTS

All Amendments are currently entered in the application.

SUMMARY OF THE INVENTION

The present invention is an iron type golf club head having a club head body and a hosel for connection to a shaft. The body includes a heel toe ball striking face top ridge surface and bottom sole. The rear surface of club head is formed with upper and lower section, the upper and lower sections extending entirely across the rear surface from adjacent the heel the adjacent to toe. The upper portion extends downwardly toward the bottom sole to a point approximately midway between the top ridge and the bottom sole. The lower portion is located below the upper portion and extends upwardly toward the top ridge to a point approximately midway between the bottom sole and the top ridge. The lower portion includes an elongated cavity extending between the heel and the toe, but is located solely in the lower portion of the rear surface. The lower portion is further defined as having a thickness between the lower surface of the cavity and the ball striking

face that is thinner than the thickness between the non-cavity upper portion of the club head and the ball striking face. The golf club head is further defined wherein the elongated cavity is formed with a lower surface, bottom side wall, toe side wall, heel side wall and upper side wall, wherein these walls define the outer perimeter of the cavity. The iron type golf club head is still further defined by the upper portion of the rear surface being adjacent to the top edge of the perimeter weighted cavity and the lower portion of the rear surface. The iron type golf club head still further includes a mask extending in the rear toe direction between the upper portion and the elongated perimeter weighted cavity in the lower portion. Still another feature of the iron type golf club head is a ledge which may be coincident with a top edge of the elongated perimeter weighted cavity. A still further variation of the invention is the use of an insert material located in the elongated perimeter weighted cavity. Another variation is an iron type golf club head having a weighted mask on the rear surface located within the elongated perimeter weighted cavity. Another variation of the iron type golf club head includes bottom and side wall surfaces extending up to 2/3 the distance between the top ridge and the bottom sole formed in the cavity.

ISSUES

1. Whether Claims 61, 62, 63, 66, 68, 71 and 72 are anticipated under 35 U.S.C. §102(b) or obvious under 103(a) based upon the disclosure of Teramoto.
2. Whether Claims 67, 69 and 70 are unpatentable under 35 U.S.C. §103(a) based upon the combination of Teramoto, Gorman and Antonious.

GROUPING OF THE CLAIMS

Claims 61, 62, 63, 66 and 72 stand or fall together.

Claims 67 and 70 stand or fall alone.

Claims 68 and 71 stand or fall together.

Claim 69 stands or falls alone.

ARGUMENTS

I. Claims 61, 62, 63, 66 and 72 are not anticipated under 35 U.S.C. §103(a) by Teramoto

Independent claims 61 and 62 call for a club head with a rear surface having an upper and lower portion extending across the rear surface from the heel to the toe. The claims also call for a heel to toe cavity in the lower portion of the club head. The claims further call for the thickness between the bottom cavity wall and clubface to be thinner than the thickness of the upper portion of the clubhead.

The law governing rejections under 35 U.S.C. § 102(b) dictates that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an ipsissimis verbis test, i.e. identity of terminology is not required. *In re Bond*, 910 F.2d 831m 15 USPQ2d 1566 (Fed. Cir. 1990).

Teramoto is directed to a set of golf clubs wherein the clubhead includes a hollow portion for the lower lofted irons which gradually decreases in the higher lofted irons, being eliminated totally in the cross-section of a club shown in Figure 3(c). This concept has little or nothing to do with Appellant's invention where the relative size of the upper and lower portion, including the cavity formed therein, remains proportionately the same. There is no disclosure in Teramoto that the upper and lower portions extend from heel to toe. Rather Teramoto shows only a single cross-section which one can assume is in the center of the club as no section line is shown. One must assume the hollow structure is larger than a narrow slit since there is no disclosure of the width of the hollow portion. Furthermore, the thickness of the cavity to clubface is essentially the same at the upper portion of the clubhead contrary to the Examiner's position - See Fig. 4a where the upper portion is clearly the same thickness as the cavity portion.

Therefore, the 35 U.S.C. §102(b) rejection fails as Teramoto does not disclose all of the claimed limitations of Applicant's claims.

II. Claims 61, 62, 63 and 72 are not obvious under 35 U.S.C. §103(a) in view of Teramoto

As discussed above, Teramoto does not disclose the size, shape or location of the upper and lower portions of the rear cavity. Furthermore, there is no suggestion or teaching that Teramoto includes a structure that anticipates Appellant's claims. Teramoto discusses only the size of the hollow from the longest to the shortest clubs and this feature is not relevant to Appellant's invention. Thus without a teaching, the structure of Appellant's claims cannot be deemed obvious and, therefore, the rejection under 35 U.S.C. §103 (a) fails and should be withdrawn.

III. Claims 67 and 70 are not rendered obvious by the combination of Teramoto, Gorman or Antonious

Claim 67 calls for an iron club head having a mass extending in a heel to toe direction between the upper portion and the cavity. Refer to Appellant's Figures 9 and 10. None of the references show such a mass structure. Teramoto shows a bulge in Figure 4a with no description as to whether the bulge extends across the rear surface.

IV. Claims 68 and 71 are not anticipated by the disclosure of Teramoto

Claims 68 and 71 calls for a ledge coincident with the bottom of the upper portion and the top of the lower portion. Refer to Appellant's Figure 22. Teramoto does not show or anticipated the claimed structure.

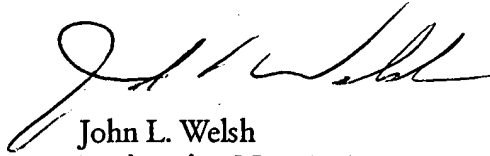
V. Claim 69 is not rendered obvious by the combination of Teramoto, Gorman and Antonious

Claim 69 calls for an insert material in the cavity. Refer to Appellant's Figures 14 and 15. The Examiner takes the position that it would be obvious to place an insert in the elongated cavity but offers no teaching to support this position. One cannot simply take official notice of a claimed feature without some teaching to support it.

VI. Conclusion

In conclusion, Appellant has shown that the references cited in the Office Action neither disclose nor suggest the claimed golf club head. Therefore, it is respectfully requested that all of the rejections outstanding in this case be reversed.

Respectfully submitted,



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Docket No. RIF-114



APPENDIX

CLAIMS ON APPEAL

61. An iron type golf club head having a club head body and means for connection to a shaft; said club head body including a heel, toe, a ball striking face, a top ridge surface and bottom sole surface, wherein the improvement comprises:

a rear surface having an upper portion and a lower portion; said upper and lower portion extending entirely across said rear surface from adjacent said heel to adjacent said toe; said upper portion extending downwardly toward said bottom sole approximately midway between said top ridge and said bottom sole; said lower portion located below said upper portion and extending upwardly toward said top ridge approximately midway between said bottom sole and said top ridge; said lower portion including a heel to toe, elongated cavity located solely in said lower portion of said rear surface; said lower portion having a thickness between the lower surface of said elongated cavity and said ball striking face that is thinner than the thickness between the non-cavity upper portion and said ball striking face.

62. An iron type golf club head having a club head body and means for connection to a shaft; said club head body including a heel, toe, a ball striking face, a top ridge surface and bottom sole surface, wherein the improvement comprises:

a rear surface having separate upper and lower portions; said upper portion and said lower portion extending across said rear surface from adjacent said heel to adjacent said toe; said upper portion extending downwardly toward said bottom sole approximately one-third the

distance between said top ridge and said bottom sole;

said lower portion located below said upper portion and said lower portion being within an approximate lower two-thirds of said rear surface in a direction between said bottom sole and said top ridge; the one third upper portion and the two thirds lower portion relationship being maintained entirely across said rear surface from adjacent said heel to adjacent said toe;

said lower portion including a heel to toe, elongated, perimeter weighted cavity located solely in said lower portion of said rear surface; said cavity extending from adjacent said heel to adjacent said toe;

said upper portion being further defined as a non-perimeter weighted, blade type iron structure, having a generally uniform thickness from said heel to said toe;

said lower portion having a thickness becoming progressively thicker as it extends from the upper portion toward said bottom sole;

said club head having a thickness between said elongated cavity and said ball striking face that is thinner than the thickness between the non-cavity upper portion and said ball striking face.

63 The iron type golf club head of claim 62 wherein said elongated, perimeter weighted cavity is formed with a lower surface, a bottom side wall, a toe side wall, a heel side wall and an upper side wall; said walls defining the outer perimeter of said elongated cavity.

66. The iron type golf club head of claim 62 wherein the said upper portion of said rear surface is adjacent to a top edge of said elongated, perimeter weighted cavity in said lower portion of said rear surface.

67. The iron type golf club head of claim 62 wherein said rear surface further includes a mass extending in a heel to toe direction between said upper portion and said elongated, perimeter weighted cavity in said lower portion of said rear surface.

68. The iron type golf club head of claim 62 wherein a bottom edge of said upper portion is defined by a ledge coincident with a top edge of said elongated, perimeter weighted cavity.

69. The iron type golf club head of claim 62 wherein an insert material is located within said elongated, perimeter weighted cavity.

70. The iron type golf club head of claim 62 further including a weighted mass on said rear surface located within said elongated, perimeter weighted cavity.

71. The iron type golf club head of claim 62 further including a ledge coincident with a top edge of said elongated cavity.

72. The iron type club head of claim 62 wherein said perimeter weight formed by said cavity includes a bottom wall and side walls extending up to two thirds the distance between said top ridge and said bottom sole.